

b. Remarks.

The inventor protests the late 35 U.S.C. §102 citation of Dykstra et al as anticipatory prior art. It should be made explicitly clear in the record that such an action at this point does not overshadow the fact that the inventor cited and fully discussed in 2001 the patentable difference between the two teachings on the last paragraph of page 4 of the subject application.

Further, the amendments to the claims were made to make it abundantly clear that the applicant's novel invention is designed for institutions, to be operated by institutions with each debt instrument fully and separately collateralized. Accordingly, the Office is solicited to indulge the minor amendments to claims 6 thru 19 with insertions made to make it unambiguously clear that the invention is for institutions.

Further, the applicant and his counsel thank the Examiner for approving the drawings. Counsel wishes to thank the Examiner for his extraordinary insight regarding the broad scope of the claims presented and the significance of the invention's interplay of steps distinguishing it from Dykstra et al, which is designed to approve loans whereas the novel invention is above the loan approval processing and deals solely with auctioning instruments by institutions with a significant basis being the interest rates of the instruments.

Remaining claims 6-19 have been amended in a manner such that it is now abundantly clear that the invention is for institutions and functions based on the interest rates of the instruments being auctioned. Moreover, counsel was unable to find any prior art language that would suggest or motivate a combination and modification of the subject claims that would satisfy the new KSR guidelines. In that vein, applicant wishes to vehemently point out the crucial fact, namely, that the Dykstra et al patent cited as anticipatory does not once discuss or mention the "interest rate" of an instrument. Therefore, it is respectfully requested that the Examiner take judicial notice of the following facts in reexamining this application:

(a) The sole reference cited against applicant is Dykstra et al and it fails to recite therein or discuss any reference to "interest rate of an instrument";

- (b) The Dykstra et al reference cited is related only to borrowers in the loan application process, not explicitly issuers of promissory notes or auctioneers thereof;
- (c) The Dykstra et al reference cited is not explicitly claiming any utility for use solely by institutions; and,
- (d) On page 4 of the original non-provisional application filed in 2001 it is stated by the applicant, "The present invention represents an improvement and a novel extension overissued to Dykstra et al on Mar. 11, 1997... ."
- (e) In the elected section designation "Field of the Invention" the scope of the application was limited as follows:

"The present invention relates to financial transactions via computer, specifically a system and method for effecting an electronic auction between borrowers pre-qualified via a borrower's institution and savers with available funds on deposit with a saver's institution using a third-party auctioneer such that the saver may select the bid at the highest rate of return and the borrower can offer the saver *a selected rate of return [interest]*."

{Emphasis added and bracketed "[interest]" inserted to emphasize applicant's argument}

Counsel for the applicant has made a good faith effort with this amendment C to insure that new matter has not been inserted in the amending process. Accordingly, it is respectfully requested that the Office withdraw with prejudice the rejection of claims 6 –19, as amended, based on these claims being anticipated by Dykstra et al. Moreover, there is no suggestion, intimation, averment, or teaching of the invention as now clearly claimed supportable by Dykstra et al either singly or when combined with any of the prior art references of record.

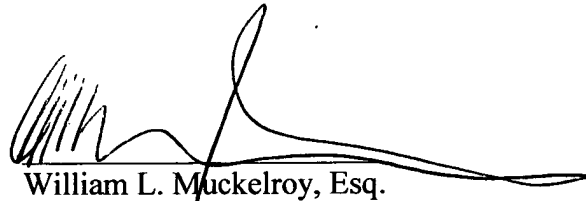
c. Conclusion and Summary

For the reasons herein set forth in detail, it is kindly requested that the Examiner withdraw the rejection, at the very least because Dykstra fails to recite the claimed "auctioning" step, and carefully reconsider the application and certify the allowability of claims 6-19. Hence, after this long wait applicant's patent application for his invention

should be issued a NOTICE OF ALLOWANCE AND BASE ISSUE FEE DUE including accurate calculation and indication of the term extension entitlement.

We are confident the Examiner concurs that patentable subject matter has been presented but if he is of the opinion that it has not been adequately claimed and/or for some reason the language presented needs tweaking to properly recite what is clearly a novel patentable advance in the art of banking, his suggestions on behalf of the Office are solicited via phone conference or a proposed Examiner's amendment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'William L. Muckelroy', with a long horizontal flourish extending to the right.

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Enclosures: Amendment C with Complete Listing of Claims as Amended Under Rule 121, Certificate of Mailing; Petition for One-Month Extension with fee via payment authorization form signed by attorney of record.

cc: Bamacorp

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